

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6381

BILL NUMBER: SB 90

DATE PREPARED: Nov 23, 1998

BILL AMENDED:

SUBJECT: Land based casinos on tribal lands.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill provides that the state may not enter into a tribal-state compact to allow gaming on Indian lands in Indiana without the authorization of the General Assembly. It prohibits land based casinos in Indiana except for land based casinos located on Indian lands under a tribal-state compact authorized by the General Assembly. It provides that a tribal-state compact entered into without the authorization of the General Assembly is void.

It requires the Department of Commerce (DOC) to assess the economic development needs of the Indian tribe and the communities surrounding Indian lands located in Indiana. It requires the DOC to do the following to promote economic development on Indian lands: (1) develop a list of potential economic development projects that meet the needs of the tribe and the surrounding communities; (2) host and moderate meetings between the tribe, local governments, and individuals from the surrounding communities invited by the DOC to identify the economic development projects preferred by the tribe and the surrounding communities; and (3) assist the tribe in developing a plan to fund and implement the preferred projects. It requires the executive director of the DOC to appoint an individual to serve as a liaison to the tribe. It requires the liaison to coordinate the DOC's efforts to assist the tribe's implementation of the economic development plan and to assist the tribe or an entity locating on Indian lands in obtaining any economic development assistance provided by the state that the tribe or the entity is eligible to receive.

Effective Date: January 1, 1999 (retroactive).

Explanation of State Expenditures: This bill requires that if the Secretary of the Interior acquires in trust, for the benefit of an Indian tribe, land located in Indiana, the Department of Commerce (DOC) must assess the economic development needs of the Indian tribe and the surrounding communities. The DOC may contract with any individual or entity to perform the economic development needs assessment. This would increase the expenses of the DOC by an indeterminable amount.

Explanation of State Revenues: This bill provides that the State of Indiana may not enter into a tribal-state compact to allow gaming on Indian lands without the authorization of the General Assembly. It also provides that a tribal-state compact is effective only after it has been enacted into law by the General Assembly and signed by the Governor.

The Indian Gaming Regulatory Act (IGRA) allows Indian tribes to conduct any type of class III gaming (which includes parimutuel wagering, slot machines, and video poker) in a state that allows such gaming as long as it conforms to the compact negotiated by the state and the Indian tribe. It is not known whether this language will prevent an Indian tribe from operating a casino in the state if the General Assembly does not authorize it.

The IGRA provides that an Indian tribe may sue a state for failing to negotiate or failing to negotiate in good faith. However, the United States Supreme Court ruled in the case of *Seminole Tribe of Florida v. Florida* that the United States Congress does not have the power to subject states to lawsuits by Indian tribes for failing to negotiate a compact. Therefore, the provision of the IGRA that allows tribes to sue states is unenforceable.

The Eleventh Circuit Court of Appeals, in its decision in *Seminole Tribe of Florida v. Florida*, asserted that Indian tribes may negotiate with the U.S. Secretary of the Interior for a resolution if negotiations with a state fails. The U.S. Supreme Court did not comment on this assertion. The IGRA does not contain language that authorizes the Secretary of the Interior to negotiate a compact without participation by a state. Therefore, it is not known if a tribe will be able to negotiate a compact with the Secretary of the Interior if the State of Indiana refuses.

In addition, Indian tribes in California, Florida, and Texas operate casinos even though a tribal-state compact has not been negotiated. The states have been unable to shut down the casinos because the land is under federal government jurisdiction.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of Commerce; Governor's Office; General Assembly.

Local Agencies Affected:

Information Sources: 25 U.S.C. 2701 et seq. (Indian Gaming Regulatory Act); *Seminole Tribe of Florida v. Florida* et al, 116 S. Ct. 1114 (1996); Ellen Perlman, "A Game of Defiance," *Governing*, November 1998, pages 50-54.